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OFFICE OF PETITIONS

In re Application of Shutt and Kutz :
Application No. 09/977,111 : Decision on Petition
Filing Date: October 11, 2001 :
Attorney Docket No. CYPR-CD00202 :

This is a decision on the petition under 37 CFR 1.181, filed November 12, 2003, to withdraw the holding of abandonment.

The petition is **granted**.

Facts:

A Notice to File Corrected Papers was mailed November 19, 2001.

As demonstrated by a showing in compliance with 37 CFR 1.8(b), petitioner mailed a reply to the Notice on December 31, 2001.

Unfortunately, the reply incorrectly listed the application number as 09/997,111. As a result, the reply was not matched with the file for the instant application.

A Notice of Abandonment was mailed November 6, 2003.

A petition to withdraw the holding of abandonment and check for \$130 were filed November 12, 2003. Unfortunately, the petition incorrectly listed the application number as 09/997,111.

A new petition to withdraw the holding of abandonment and a new check for \$130 were filed February 9, 2004. The new petition listed the correct application number.

Discussion:

At the discretion of the Office, a paper listing an incorrect application number may be considered timely and proper. The Office will accept papers as timely filed if the following criteria are met:

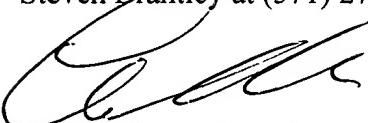
- (1) The papers contained sufficient information for the Office to recognize they included an incorrect application number.
- (2) The papers contained sufficient information for the Office to determine the correct application number.

The December 31, 2001 reply contained sufficient information for the Office to recognize it included an incorrect application number. The reply contained sufficient information for the Office to determine the correct application number. Therefore, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

A fee is unnecessary for a petition under 37 CFR 1.181. Therefore, the Office will schedule a refund of the \$130 paid on November 12, 2003, and the \$130 paid on February 9, 2004.

The file will now be forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.



Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions